

Document No. _____
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-1-445, 59-1-447, and 59-18-310(B)

43-100. Test Security

Preamble:

State Board of Education (SBE) Regulation 43-100 (R.43-100) regulates not only test security, but also includes disciplinary action for educator's breach of professional ethics for violating test security. The amendment is being proposed because failing to test and exempting students from being assessed are breaches and the parental opt-out of testing movement unintentionally jeopardizes an educator's certificate.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on August 28, 2015.

Section-by-Section Discussion

The proposed amendment to section IX(P) would clearly provide that a student opting out of assessments would not be a breach of professional ethics by the educator.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on January 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendment regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation, click on the attached link <..\..\Charts\RegReviewedbySBE15-16.pdf>.

Written comments should be submitted to Elizabeth Jones, Director, Office of Assessment, 1429 Senate Street, Room 209-B, Columbia, South Carolina 29201 or by e-mail to ejones@ed.sc.gov on or before 5:00 p.m. on December 28, 2015.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Test Security

Purpose: R.43-100(X)(P) is being amended.

Legal Authority: 1976 Code Sections 59-5-60, 59-1-445, 59-1-447, and 59-18-310(B)

Plan for Implementation: The proposed amendment will be posted on the South Carolina Department of Education's (SCDE) web site for review and comment. The amendment will take effect upon approval by the General Assembly and publication in the *State Register*.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION
BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The amendment to this regulation is needed to ensure educators are not punished for the actions of those students who chose to opt-out of assessments.

DETERMINATION OF COSTS AND BENEFITS:

No additional costs are expected and the benefit is to educators who must plan for an increase in the opt-out of testing movement.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation has no effect on the environment or public health.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE
REGULATION IS NOT IMPLEMENTED:**

This regulation will have no detrimental effect on the environment or public health if not implemented.

Statement of Rationale:

The proposed amendment will ensure that the parental opt-out of testing movement does not unintentionally jeopardize an educator's certificate.

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Indicates New Matter

Text:

43-100. Test Security.

I. Tests administered by or through the State Board of Education shall include but are not limited to:

A. The statewide tests, as defined in State Board of Education Regulation 43-262, including field tests and pilot tests;

B. Examinations for admission to teacher education programs and teacher certification examinations;

C. Examinations for admission to programs such as the gifted and talented program;

D. High school equivalency tests.

II. As used in this regulation, "local school board" means the governing board of a public school district, a public charter school, as well as those of special school districts, special schools, and institutions that utilize tests administered by or through the State Board of Education.

III. Each local school board must develop and adopt a district test security policy. The policy must provide for the security of materials for the entire period of time (before, during, or after testing) the materials are in the district and/or the schools within that district. The policy must address security for paper-based, computer-based, and customized assessments. This also applies to district-owned materials that are the same as those used in any state-operated testing or assessment program. Throughout the time testing materials are under the control of the school district, secure paper-based materials must be stored under lock and key when not in use for approved test administration activities.

IV. Each District Superintendent and the administration from each of the special schools and institutions that utilize tests administered by or through the State Board of Education must designate annually one individual in each district for each mandated assessment who will be the sole individual in the district authorized to procure test instruments that are utilized in testing programs administered by or through the State Board of Education. The name of the designated individual must be provided to the South Carolina Department of Education (SCDE) in writing. When the testing program involves procurement of materials available commercially, the designated individual must be the sole individual in the district authorized to procure commercial test instruments which are utilized in testing programs administered by or through the State Board of Education.

V. Individuals must adhere to all procedures specified in all operating manuals governing the mandated testing programs. Manuals are provided by or through the SCDE.

VI. A. The State Board of Education may invalidate test scores that reflect improbable gains and that cannot be satisfactorily explained through changes in student populations or instruction.

B. In cases where test results are invalidated because of a breach of security or action of the State Board of Education, any programmatic, evaluative, or certification criteria dependent upon the data will be deemed to not have been met.

VII. Any individual(s) who knowingly engage(s) in any activity that results in the invalidation of scores derived from teacher certification examinations, the examinations for admission to teacher education programs, and/or the high school equivalency tests forfeits all opportunities to retake the test(s).

VIII. Any knowing involvement in the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to a test administration site for any of the tests administered by or through the State Board of Education will be considered a breach of test security within the meaning of S.C. Code Ann. Section 59-1-445 (1990, 2004). Any individual(s) who knowingly cause(s) or allow(s) the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to any test administration site specified in this paragraph forfeits all opportunities to retake the test(s).

IX. Each of the following is considered a breach of professional ethics which may jeopardize the validity of the inferences made on the basis of test data and, as such, are viewed as security violations which could result in criminal prosecution and/or disciplinary action to an educator's professional certificate.

A. Failing to administer tests on the test dates specified by the SCDE.

B. Failing to maintain an appropriate testing environment, free from undue distractions.

C. Failing to proctor the test to ensure that examinees are engaged in appropriate test-taking activities.

D. Providing examinees with access to test questions or specific test content prior to testing.

- E. Providing examinees with access to answer keys prior to or during testing.
- F. Keeping, copying, reproducing, or using in any manner inconsistent with the instructions provided by or through the SCDE any test, test question, or specific test content.
- G. Keeping, copying, or reproducing in any manner inconsistent with the instructions provided by or through the SCDE any portion of examinee responses to any item or any section of a secured test.
- H. Coaching examinees, altering examinee responses, or interfering with examinee responses in any way prior to, during, or after testing. This includes hinting to examinees about the correctness of their responses.
- I. Failing to follow instructions specified in the test manuals for the distribution, storage, or return of test materials or failing to account for test materials before, during, or after testing.
- J. Failing to follow all directions pertaining to the administration of a test as specified in the test manuals for that test. This section includes failure to clear the memory of calculators used on a test as directed in the test manual.
- K. Allowing, participating in, assisting in, or encouraging any unauthorized access to test materials prior to, during, or after testing.
- L. Disclosing the contents of any portion of secure materials or discussing the contents of secure tests with examinees, teachers, or other educators before, during, or after testing.
- M. Leaving in view of examinees during test administration materials that are content or conceptually related to the subject areas being assessed.
- N. Providing references or tools other than those specifically allowed in test manuals. Providing references or tools during test administration at times other than those specifically allowed in test manuals.
- O. Failing to provide accommodations and/or customized materials as specified in the student's Individualized Education Program (IEP) or 504 plan. Providing accommodations and/or customized materials not included in the student's IEP or 504 plan.
- P. Excluding examinees or exempting from assessment students who should be assessed; however, this does not include students who opt out of the assessment.
- Q. Failing to return test materials for all examinees.
- R. Engaging in inappropriate test preparation practices that invalidate the test scores. These practices include activities that result in an increase in test scores without a simultaneous increase in the examinee's real achievement or performance in the content area.
- S. Revealing test scores or test performance to anyone not involved in the education of the examinee.
- T. Altering test scores in electronic records or files.
- U. Failing to report a security breach.

XI. Any suspected violation of security must be reported to the South Carolina Law Enforcement Division.

XII. If a security breach occurs in a district, or charter school, rendering test forms or test items unusable, funds equivalent to replacement costs may be withheld from the district or charter school by the SCDE at the discretion of the State Board of Education.